

WINDELS MARX LANE & MITTENDORF, LLP
Attorneys for Alan Nisselson, Interim Chapter 7 Trustee
For the Estate of Bernard L. Madoff
156 West 56th Street
New York, New York 10019
Tel: (212) 237-1000

Hearing Date: May 6, 2009 at 10:00 a.m.
Objection Deadline: May 1, 2009

Attorneys appearing:
Howard L. Simon (hsimon@windeslmarx.com)
Regina Griffin (rgiffin@windelsmarx.com)

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.
-----X

Adv. Proc. No. 08-01789 (BRL)

SIPA Liquidation

**RESPONSE OF ALAN NISSELSO, CHAPTER 7 TRUSTEE OF THE ESTATE
OF BERNARD L. MADOFF, IN SUPPORT OF MOTION PURSUANT TO
RULE 1014(b) FOR TRANSFER OF RELATED PROCEEDING**

**TO THE HONORABLE BURTON R. LIFLAND,
UNITED STATES BANKRUPTCY JUDGE:**

Alan Nisselson, interim trustee for the chapter 7 estate of Bernard L. Madoff (the “Madoff Trustee”), by and through his attorneys, respectfully submits this response in support of the motion (the “Motion”) of Blumenthal & Associates Florida General Partnership, Martin Rappaport Charitable Remainder Unitrust, Martin Rappaport, Marc Chernow, and Steven Morganstern (the “Movants”) for entry of an order transferring In re Madoff Securities International Limited, No. 09-16751 (Bankr. S.D. Fla.), to the United States Bankruptcy Court for the Southern District of New York pursuant to Fed. R. Bankr. P. 1014(b).

As set forth below, transfer of the Florida proceeding to this Court – where the above-captioned case and the Bernard L. Madoff bankruptcy case are already pending – is in the interest of justice because it will foster coordination of the related proceedings, and will avoid inefficiencies and the waste of judicial and other resources.

THE RELATED MADOFF PROCEEDINGS BEFORE THIS COURT

1. On March 12, 2009, Bernard L. Madoff (“Madoff”) pleaded guilty to eleven felony counts before the United States District Court for the Southern District of New York, related to what may be considered the largest “ponzi scheme” in history.

The SIPA Liquidation of BLMIS

2. On December 11, 2008, the above-captioned SIPA liquidation proceeding was commenced against Bernard L. Madoff Investment Securities LLC (“BLMIS”) pursuant to the Securities Investor Protection Act of 1970 (“SIPA”). BLMIS was the principal operating company for the broker-dealer and investment advisory business previously run by Madoff.

3. On December 15, 2008, Irving H. Picard, Esq. was appointed as SIPA Trustee for the liquidation of the business of BLMIS.

The Involuntary Petition Commencing the Madoff Bankruptcy Case

4. On April 13, 2009 (the “Petition Date”), Movants Blumenthal & Associates Florida General Partnership, Martin Rappaport Charitable Remainder Unitrust, Martin Rappaport, Marc Chernow and Steven Morganstern filed an involuntary petition for relief against Bernard L. Madoff under chapter 7 of title 11, United States Code, 11 U.S.C. §§ 101, et seq. (the “Madoff Bankruptcy Case”). See In re Bernard L. Madoff, Bankr. Case No. 09-11893 (BRL).

5. The Madoff Bankruptcy Case was designated as related to this proceeding, and was assigned to the Honorable Burton R. Lifland.

6. Pursuant to an Order of this Court signed on April 20, 2009 directing the appointment of an interim chapter 7 trustee, the United States Trustee's Office for the Southern District of New York appointed Alan Nisselson as the Madoff Trustee on April 21, 2009.

**THE CHAPTER 15 PROCEEDINGS COMMENCED BY THE JPL OF MSIL
IN THE SOUTHERN DISTRICT OF FLORIDA**

7. Another Madoff entity, MSIL, is also being liquidated in proceedings in the United Kingdom. Stephen John Akers, Mark Richard Byers and Andrew Laurence Hosking are serving as Joint Provisional Liquidators (the "JPL") of MSIL pursuant to an Order of the High Court of Justice, Chancery Division, Companies Court in London, England.

8. On April 14, 2009, the JPL filed in the United States Bankruptcy Court for the Southern District of Florida an expedited petition pursuant to Chapter 15 of the Bankruptcy Code, seeking various relief, including:

- recognizing the UK liquidation proceedings of MSIL as a "foreign main proceeding," and granting comity thereto;
- authorizing the JPL to proceed against MSIL assets located within the United States pursuant to Chapter 15 of the Bankruptcy Code;
- authorizing the JPL to conduct discovery pursuant to 11 U.S.C. § 1521(a)(4) and/or other applicable provisions of law, and
- permitting the JPL to examine Peter Madoff, Madoff's brother, and require him to produce all documents relevant to the UK liquidation proceedings of MSIL pursuant to Fed.R.Bankr.P. 2004.

See Joint Provision Liquidators' Expedited Petition for Recognition of Foreign Proceeding and for Commencement of Chapter 15 Ancillary Case in Aid of Foreign Main Proceeding, In re Madoff Securities Int'l Ltd., Case No. 09-16751 (Bankr. S.D.Fla. filed Apr. 14, 2009), attached as Exhibit C to the Motion.

9. In an order dated the same day, April 14, 2009, the Florida Bankruptcy Court granted the expedited petition of the JPL. See order attached as Exhibit D to the Motion.

ARGUMENT

**THE MSIL FLORIDA PROCEEDING SHOULD BE TRANSFERRED TO THIS
COURT PURSUANT TO FED.R.BANKR.P. 1014(b)**

10. Federal Rule of Bankruptcy Procedure 1014(b) provides for the transfer of related cases where the transfer is determined to be in the interest of justice or for the convenience of the parties.

11. In the Florida proceeding, the JPL seeks to proceed against MSIL assets located within the United States, and to conduct discovery of, among others, Peter Madoff, the Debtor's brother.

12. In light of the potential overlap of assets, discovery and creditors among the related Madoff estates, the Madoff Trustee respectfully submits that coordinated proceedings before this Court will avoid duplicative efforts, inefficiencies, and possibly inconsistent results.

13. The Madoff Trustee thus agrees with the Movants that transfer of the MSIL Florida proceeding to this District would be in the interest of justice.

WHEREFORE, the Madoff Trustee respectfully requests that this Court grant the Motion and transfer the MSIL Florida proceeding to this District, and grant such other relief as is just.

Dated: New York, New York
May 1, 2009

Respectfully submitted,

WINDELS MARX LANE & MITTENDORF, LLP
*Attorneys for Alan Nisselson, Chapter 7 Trustee of
Bernard L. Madoff*

/s/ Howard L. Simon
Howard L. Simon (hsimon@windelsmarx.com)
Regina Griffin (rgriffin@windelsmarx.com)
156 West 56th Street
New York, New York 10019
Telephone (212) 237-1000